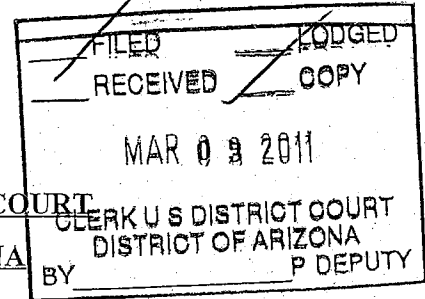


John Lewis Mealer, Pro Per (Pro Se)
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

JOHN LEWIS MEALER

Plaintiff
vs

GMAC MORTGAGE LLC and CEO DAVID
APPLEGATE, GMAC FINANCIAL
SERVICES, GMAC LLC and CEO MICHAEL
CARPENTER, GENERAL MOTORS
CORPORATION, GENERAL MOTORS
COMPANY and CEO EDWARD
WHITACRE JR, MOTORS LIQUIDATION
COMPANY, RESIDENTIAL CAPITAL LLC
and CEO THOMAS MARANO, GM
ENGINEER KRIS J KORDELLA, JANE DOE,
JOHN DOE, et al.

Defendant(s)

Case No: 3:10-cv-08172-JWS

PLAINTIFF'S

NOTICE and MOTION FOR ENTRY OF
FINAL DEFAULT JUDGMENT AGAINST
DEFENDANT'S: MOTOR'S LIQUIDATION
COMPANY, f/k/a GENERAL MOTORS
CORPORATION and GENERAL MOTORS
COMPANY and CEO EDWARD WHITACRE
JR.

ORDER OF ENTRY OF DEFAULT for
FINAL JUDGMENT

JUDICIAL NOTICE

Plaintiff, John Lewis Mealer, hereby gives notice of entry to defendants and move this court for entry of a default judgment as to defendant(s); 1). Motor's Liquidation Company, f/k/a General Motors Corporation and 2). General Motors Company (a/k/a General Motors LLC who has been dismissed pending plaintiff's appeal in accordance to Doc. 38 Order), and, 3). CEO Edward Whitacre Jr., in his personal negligent capacity, upon the lawfully served Amended Complaint heretofore filed and served upon the defendants, in accordance with the provisions of Rule 55(b)(2), Federal Rules of Civil Procedure according to Arizona Rules of Civil Procedure by "...following state law for serving a summons...." Fed. R. Civ. P. 4(e)(1), and in support thereof shows the court the following.

1 This Motion is based on the attached Memorandum of Points and Authorities filed and
2 timely served concurrently all pleadings and papers on file herein, and upon such oral and
3 documentary evidence as may be presented at a hearing on this Motion if necessary.

4
5 Memorandum of Points and Authorities

6 1. On July 8th, 2010 the plaintiff, John Lewis Mealer, filed in the Superior Court of
7 the State of Arizona in and for the County of Navajo, a complaint (amended on August 10th,
8 2010 prior to service) alleging certain anti-competitive, trade libel, intentional interference with
9 prospective advantage through tortious and criminal activities including defamation and other
10 intentional injurious falsehood related activity in violation of state and federal laws and in
11 violation of the Sherman Act, 15 U.S.C. §§1 & 2 under Arizona state laws ARS § 44-1402, 1403,
12 et seq. Said Complaint was Amended prior to being served upon defendants. A copy of said
13 Amended Complaint is attached hereto as Exhibit "1" and is incorporated herein by reference.

14
15 2. On August 16th, 2010, said Amended Complaint and a Summons in a Civil Action
16 were properly served upon on all parties following due diligence to obtain the correct mailing
17 addresses for service to the various parties and negligent CEO's associated with these claims by
18 applicable Arizona Rules of Civil Procedure and Fed. R. Civ. P. 4(e)(1) which since been ruled
19 as properly completed for this instant case by the Honorable John W. Sedwick sitting for the
20 District of Arizona where this case was transferred. A copy of said Summons and Service is
21 attached hereto as Exhibit "2" and is incorporated herein by reference.

22 3. On February 1st, 2011, after more than 30 days, excluding federal holidays, had
23 elapsed since the service of said Amended Complaint and Summons upon defendant, without
24 answer thereto having been served by defendant upon the plaintiff, John Lewis Mealer, (herein
25

1 "MEALER") the plaintiff MEALER's intention to petition this court for entry of default
2 judgment against each party noted herein, who had been repeatedly informed of this plaintiff's
3 intention to petition for entry of default, including a letter sent to each respective defendant. A
4 copy of said letter attached hereto as Exhibit "3" and is incorporated herein by reference. No
5 response to letter or to repeated requests and demands for a responsive pleading has been
6 received from defendants, specifically; Motor's Liquidation Company, f/k/a General Motors
7 Corporation and General Motors Company and CEO Edward Whitacre Jr in his personal
8 capacity.

9 4. Defendants have failed to plead pursuant Fed. R. Civ. P. 8(b) or otherwise defend
10 this action through denial, general or otherwise, and the plaintiff, MEALER is entitled to
11 judgment by default against defendants. Rule 8 further states that defendants shall:

12 (1)(A) state in short and plain terms its defenses to each claim asserted against it; and (B)
13 admit or deny the allegations against it by an opposing party. (3) General and Specific
14 Denials. A party that intends in good faith to deny all the allegations of a pleading –
15 including the jurisdictional grounds – may do so by general denial. A party that does not
16 intend to deny all the allegations must either specifically deny designated allegations or
17 generally deny all except those specifically admitted. (6) Effect of failing to Deny. An
18 allegation – other than one relating to the amount of damages – is admitted if a
19 responsive pleading is required and the allegation is not denied.

20 5. Pursuant to the provisions of Rule 55(b)(2), Federal Rules of Civil procedure, this
21 Court is empowered to enter a default judgment against the defendants for relief sought by
22 plaintiff in his Amended Complaint, and written notice of this action has been given to
23 defendants as set forth in the attached affidavit.

24 6. Plaintiff MEALER recognizes that entry of a default judgment against a
25 defendant is a severe remedy. See, e.g., E.F. Hutton & Co., Inc. v. Moffatt, 460 F.2d 284, 285
(5th Cir. 1972). Where, as here, however, a party does not respond to a properly served
Complaint and ignores a duly issued and properly served Summons of a Court, a default

1 judgment, though drastic, is the appropriate and, indeed, only recourse. See In re Knight, 833
2 F.2d 1515, 1516 (11th Cir. 1987) (where party offers no good reason for late filing of answer,
3 entry of default judgment appropriate); First City Nat'l Bank of Fort Worth v. Cook, 117 F.R.D.
4 390 (N.D. Tex. 1987) (default judgment appropriate where party served has failed to answer).
5 The Plaintiff MEALER has every confidence this case would prevail at a trial. Since the
6 defendant(s) do not appear disposed to defend this action, however, this Court has as the only
7 avenue available to conclude this matter, the entry of a default judgment against defendant(s) for
8 all counts including for personal negligence when noted, both individually and where respondeat
9 superior is also held for negligent and tortious claims.

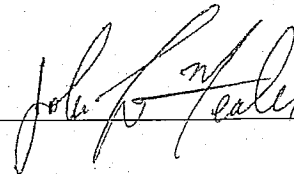
10 **PRAYER**

11 WHEREFORE, plaintiff MEALER prays that this Court enter a judgment of default
12 against defendant, and that defendant be enjoined and restrained from violating Section 1 and 2
13 of the Sherman Act, 15 U.S.C. §§ 1 and 2, as provided in the proposed Final Judgment filed
14 contemporaneously with this Motion.
15

16 **AFFIDAVIT**

17 I, plaintiff John Lewis Mealer, do hereby certify and testify through penalties of perjury
18 to the fullest extent of the law, that the statements and allegations set forth in the foregoing
19 motion and the accompanying Memorandum and Judicial Notice are true and accurate to the best
20 of my knowledge and belief.

21 Dated this 1st day of February, 2011.

22 
23
24
25

NOTICE AND CERTIFICATE OF SERVICE

1
2 I, John Lewis Mealer do hereby declare that: On ~~February~~ ^{March} ~~1st~~ ^{1st}, 2011, I deposited the
3 original and copies of the following documents and otherwise served via the US Postal Service,
4 First Class Mail to be delivered to the following persons and addresses:

5 PLAINTIFF'S NOTICE and MOTION FOR ENTRY OF FINAL DEFAULT JUDGMENT
6 AGAINST DEFENDANT'S; MOTOR'S LIQUIDATION COMPANY, f/k/a GENERAL
7 MOTORS CORPORATION and GENERAL MOTORS COMPANY and CEO EDWARD
8 WHITACRE JR., ORDER OF ENTRY OF DEFAULT for FINAL JUDGMENT, JUDICIAL
9 NOTICE

10 DATED ~~February~~ ^{March} 1st, 2011

11 **SERVICE LIST**

12 **ORIGINAL:**

13 US District Court, District of Arizona,
14 US District Judge Honorable John W. Sedwick
130 Sandra Day O'Connor United States Courthouse, 401 West Washington Street, Ste 130, SPC
Phoenix, Arizona 85003-2146

15 **COPIES by Return Receipt Service:**

16 Motors Liquidation Company Attn; Albert Koch or acting CFO, CEO, 500 Renaissance
17 Center, Ste. 1400. Detroit, Michigan 48265

18 General Motors Company, ("GM LLC") c/o acting CEO Dan Akerson, 300 Renaissance
Center, Detroit, Michigan 48265-3000

19 Former "GM LLC", CEO Edward Whitacre Jr. as last known/previously served and received
20 address at; 300 Renaissance Center, Detroit, Michigan 48265-3000 Mail Drop # 482-Z39-B10

21 **Non-certified First Class Mail Copies to:**

22 "GM LLC" c/o Bowman & Brookes LLP 2901 N Central Ave #1600, Phx, AZ. 85012-2786

23 **Courtesy Copies electronically mailed to:**

24 Wolfe & Wyman LLP- [via email upon verification] cbdodrill@wolfewyman.com

25 Susan Payne Woodrow [via email upon verification] suzywoodrow@hotmail.com